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6 Attorneys for Flywheel APP (ABC), LLC,
Assignee and Attorney-In-Fact for
7 Defendant Flywheel Software, Inc.

8
UNITED STATES DISTRICT COURT
9
NORTHERN DISTRICT OF CALIFORNIA

10 CREATIVE MOBILE TECHNOLOGIES, LLC,

Case No. 3:16-cv-02560-SI

11 Plaintiff,

**STIPULATION AND [PROPOSED]
ORDER FOR ENTRY OF JUDGMENT**

12 v.

13 FLYWHEEL SOFTWARE, INC.,

Courtroom: 1, 17th Floor
Honorable Susan Illston

14 Defendant.
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Case No. 3:16-CV-02560-SI

FLYWHEEL'S OPPO. TO MOTION TO DISMISS SACC

STIPULATION FOR ORDER FOR ENTRY OF JUDGMENT

Whereas plaintiff Creative Mobile Technologies, LLC (“CMT”) filed its complaint for monetary damages, a permanent injunction, and other relief against Flywheel Software, Inc. (“Flywheel Software”) on May 11, 2016;

Whereas Flywheel Software has transferred ownership of all its rights, title, and interest in and to all of its tangible and intangible assets to Flywheel App (ABC), LLC (“Assignee”), pursuant to a General Assignment for the Benefit of Creditors;

Whereas Flywheel Software has dissolved and no longer is engaged in any business operations and no longer has any officers, directors, or employees;

Whereas Flywheel Software has authorized Assignee to defend all actions instituted against Flywheel Software, to appear on its behalf, and to act as its attorney-in-fact in all legal proceedings in which Flywheel is a party; and

Whereas CMT and the Assignee have met, conferred, and agreed to resolve all matters in dispute between CMT and Flywheel Software.

NOW THEREFORE, CMT and Flywheel Software, by and through Assignee, stipulate as follows:

1. The Court has jurisdiction over the subject matter and parties in this action.
2. Venue is proper as to the Parties in this District.
3. GMT contracts with taxi fleet companies across the country (“Fleets”);

19 3. CMT contracts with taxi fleet companies across the country (“Fleet Contracts”)
20 that contain, *inter alia*, certain exclusivity provisions regarding the processing of electronic
21 passenger payments (the “Fleet Contracts”). Flywheel Software, by and through Assignee, does
22 not contest the validity, legality, or enforceability of the Fleet Contracts.

23 4. CMT and Flywheel Software entered into a contract on December 4, 2014,
24 whereby Flywheel Software, *inter alia*, designated CMT as the exclusive provider and debit card
25 acceptance processing services made in connection with Flywheel Software's taxi hailing mobile
26 and web application in vehicles equipped with CMT payment systems in San Francisco (the
27 "CMT-Flywheel Contract"). Flywheel Software, by and through Assignee, does not contest the
28 validity, legality, or enforceability of the CMT-Flywheel Contract.

1 5. CMT has alleged that Flywheel both interfered with the Fleet Contracts and
2 breached the CMT-Flywheel Contract. Flywheel Software, by and through Assignee, does not
3 contest these allegations.

4 6. Flywheel Software, by and through Assignee, stipulates and consents to the entry
5 of a judgment against it in the amount of \$190,000.

6 7. Flywheel Software, by and through Assignee, stipulates and consents to the entry
7 of a permanent injunction against it whereby Flywheel Software and any current or future parent
8 corporation, subsidiary, affiliate, officer, director, employee, and other person acting under its
9 control or in concert therewith are permanently restrained and enjoined from processing, directly
10 or otherwise, electronic passenger payments in vehicles equipped with CMT payments systems.

11 8. All of CMT's claims and all of Flywheel Software's defenses will be dismissed
12 with prejudice.

13 9. CMT and Flywheel Software, by and through Assignee, waive all rights to appeal
14 or otherwise challenge or contest the validity of this order and the judgment rendered in
15 accordance herewith.

17 IT IS STIPULATED AND AGREED BY CMT AND FLYWHEEL SOFTWARE, BY AND
18 THROUGH ASSIGNEE

20 | Dated: September 18, 2017

SINGER/BEA LLP

By: _____ */s/ Benjamin L. Singer*
Benjamin L. Singer
Katie K. Erno
Walter C. Pfeffer
ATTORNEYS FOR CREATIVE MOBILE
TECHNOLOGIES, LLC

1 Dated: September 18, 2017

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4 BLAXTER | BLACKMAN LLP

5 By: _____ /s/ Steven H. Winick
6 Steven H. Winick
7 Brian R. Blackman
8 ATTORNEYS FOR
9 FLYWHEEL APP (ABC), LLC, IN ITS
10 CAPACITY AS ASSIGNEE AND ATTORNEY-
11 IN-FACT FOR FLYWHEEL SOFTWARE, INC.
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ORDER FOR ENTRY OF JUDGMENT

The Court, having considered the parties' Stipulation for Order for Entry of Judgment,

HEREBY ORDERS AS FOLLOWS:

- 4 1. This Court has jurisdiction over the subject matter and parties in this action.
- 5 2. The Clerk of the Court is hereby directed to enter the attached form of Judgment in
- 6 accordance with the parties' Stipulation and Order, each party to bear its own attorneys' fees,
- 7 costs, and expenses.
- 8 3. All of CMT's claims and all of Flywheel Software's defenses in this action are
- 9 dismissed with prejudice.
- 10 4. No party may appeal the Judgment. The parties have knowingly, intentionally,
- 11 willingly, and explicitly waived their right to appeal this Judgment.
- 12 5. This Court retains jurisdiction to enforce the terms of this Order and resulting
- 13 Judgment.

IT IS SO ORDERED

Dated: October 5 , 2017

Susan Illston

THE HONORABLE SUSAN ILLSTON
UNITED STATES DISTRICT JUDGE

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Attorneys for Defendant
Flywheel Software, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

CREATIVE MOBILE TECHNOLOGIES, LLC,

CASE NO. 16-cv-02560-SI

Plaintiff,

V.

JUDGMENT

FLYWHEEL SOFTWARE, INC.,

Courtroom: 1, 17th Floor
Hon. Susan Illston

Defendant.

JUDGMENT

JUDGMENT IS HEREBY ENTERED as follows:

1. This Court has jurisdiction over the subject matter and parties in this action.
2. Plaintiff Creative Mobile Technologies, LLC (“CMT”) is awarded damages in the amount of \$190,000 against defendant Flywheel Software, Inc. (“Flywheel”).
3. As of May 5, 2017, Flywheel and any current or future parent corporation, subsidiary, affiliate, subsidiary, affiliate, officer, director, employee, and other person acting under its control or in concert therewith are permanently restrained and enjoined from processing, directly or otherwise, electronic passenger payments in vehicles equipped with CMT payment systems.
4. This Court retains jurisdiction to enforce the terms of this Judgment.

Dated: October 5 , 2017

By: Susan Illston
Hon. Susan Illston
United States District Judge

ATTESTATION

I, Benjamin L. Singer, attest that concurrence in this Stipulation for Order for Entry of Consent Judgment has been obtained from any signatories indicated by a "conformed" signature (/s/) within this e-filed document in compliance with Civil Local Rule 5-1(i)(3). I declare under penalty of perjury that the foregoing is true and correct.

Dated: September 18, 2017

SINGER / BEA LLP

By: /s/ Benjamin L. Singer

Benjamin L. Singer

Katie K. Erno

Walter C. Pfeffer

Attorneys for Creative Mobile Technologies, LLC

Singer/bea LLP